IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of decision: 19.9.2011

(i) ITA No. 33 of 2002

M/s Lamba Builders .....Appellant

vs.

Commissioner of Income Tax, Rohtak and another .....Respondents

(ii) ITA No. 34 of 2002

M/s Lamba Builders ..... Appellant

vs.

Commissioner of Income Tax, Rohtak and another .....Respondents

CORAM: - HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MR. JUSTICE JASWANT SINGH

Present: - Mr. Akshay Bhan, Advocate for the appellant.

Mr. Yogesh Putney, Advocate for respondents.

HEMANT GUPTA, J

This order shall dispose of ITA No. 33 of 2002 pertaining to Assessment year 1987-1988 and ITA No. 34 of 2002 pertaining to Assessment year 1988-1989, whereby the cash credit entries in the name of minors were found to be unexplained and thus added in the income of the firm.

Prior to the Assessment years, in question, four minor children i.e., Baby Payal, Vimmi, Master Hunny and Baby Nancy declared certain amount for taxation under the

Amnesty Scheme for the Assessment year 1984-1985, 1985-1986 and 1986-1987. Learned Assessing Officer found that there is no evidence with regard to the receipt of gifts etc., by the minors and that the Amnesty Scheme was applicable to the persons who have not declared their income. The Scheme was not applicable for declaring the income in respect of another person though cash income belongs to a different person. The Assessing Officer relied upon a judgment of Hon'ble the Supreme Court reported as *130 ITR 244, M/s Jamna Parshad Kanhya Lal vs. CIT* that immunity was conferred to the declarant and that there was investigations into the true nature and source of the credits. On the basis of the said fact, the Assessing Officer found that the cash credit entries in the name of four minors in the books of the firm are unexplained and were thus added to the income of the firm.

In appeal, the Commissioner of Income Tax (Appeals) on 17.6.2001 returned a finding that the Amnesty Scheme could not be availed by the minors who have not earned any income and therefore, the arguments of the assesses based upon the furnishing of declaration by the minors in the Amnesty Scheme was negated. In further appeal, learned Income Tax Appellate Tribunal, Chandigarh affirmed the findings and found that assesses have introduced their unaccounted income in the form of credits in the book of accounts of the firm. The Tribunal returned the following findings: -

> "....In this case, it is obvious that amounts have been introduced in the names of minor children of the partners. It is also established that none of the children had an independent source of income and they were in the age group varying from 4 to 17 years. The claim of the assessee that amounts represented gifts received in view of the fact that no evidence whatsoever has been established. Thus, the uncontroverted position emerging from the facts of the case is that source of credits in the names of minor children has not been established."

Before this Court, learned counsel for the appellant has raised the same arguments as were raised were before the Tribunal.

We do not find that any substantial question of law arises for consideration in view of the findings recorded that the appellant have not disclosed the source of credit in the name of minor children and that the benefit of Amnesty Scheme could not be claimed by the minors without declaring the sources of their income.

Dismissed.

(HEMANT GUPTA)
JUDGE

(JASWANT SINGH)
JUDGE

19.9.2011
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